



JANUS V. AFSCME
**VICTORY
FOR WORKER
FREEDOM**



LIBERTY JUSTICE CENTER

WHO WE ARE

The Liberty Justice Center was founded to fight against political privilege. The very best example of our ability to turn that vision into a reality is in our victory in the landmark U.S. Supreme Court case, Janus v. AFSCME.

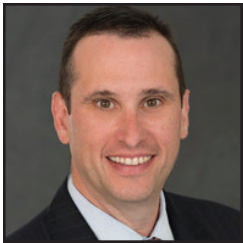
For 40 years, politicians had granted highly political government unions the power to seize money from public employees’ paychecks – even if those workers weren’t union members and wanted nothing to do with these unions. Millions of government workers across the country were forced to fund union politics and policies with which they disagreed, resulting in enormous political power and leverage for government unions. But with our victory in Janus v. AFSCME, that practice is now illegal. Our victory in this case means the First Amendment rights of millions of public school teachers, first responders and other government workers have been restored.

This is the type of precedent-setting work that the Liberty Justice Center does. We take on strategic litigation that revitalizes constitutional restraints on government power and restores individual rights. But our work extends far beyond the courtroom. We shape and frame our work in a way that explains what is at stake to the public at large. We seek to win in court, yes – but also in the hearts and minds of the American people.

OUR TEAM



John Tillman
Chairman of the Board
and Co-Founder



Patrick Hughes
President and
Co-Founder



Diana Rickert
Vice President



Jacob Huebert
Director of Litigation



Jeffrey Schwab
Senior Attorney



James McQuaid
Staff Attorney



Laurel Abraham
Director of Development



Mark Janus (far left) exits the U.S. Supreme Court and approaches a crowd of supporters moments after the High Court ruled in his favor on June 27, 2018. To Mark's right is the Liberty Justice Center's Director of Litigation, Jacob Huebert; Illinois Gov. Bruce Rauner; and LJC Chairman of the Board John Tillman (far right).

A LANDMARK VICTORY FOR FREEDOM

Imagine having to pay a middleman to work. Pay up – or find another job.

That was the reality for more than 5 million government workers in 22 states across the U.S. Those government employees were forced to pay money to highly political government unions in order to pursue careers in public service – even if those unions acted against their beliefs or interests.

Not anymore.

On June 27, 2018, the U.S. Supreme Court granted a landmark victory for worker freedom. The High Court ruled in favor of the Liberty Justice Center and our plaintiff, Mark Janus, by ruling that no government worker in America can be forced to pay money to a government union as a condition of working in public service.

Despite this victory, our work is not done. Government unions and their political allies are already pushing legislation, contract clauses, administrative changes and massive misinformation

campaigns aimed at preventing government workers from exercising their newly restored First Amendment rights.

The challenge ahead – which the Liberty Justice Center fully accepts – is to ensure that the Supreme Court's decision in the Janus case is respected and implemented by all units of government across the U.S.

Unfortunately, it is inevitable that more litigation will be necessary to ensure workers can actually exercise their constitutional rights, but we are ready for the battle ahead.

Every worker should be free to choose which organizations to support without facing repercussions from a public-sector union at his or her workplace.

Our work now is to ensure every American can exercise the rights restored to them in the Janus ruling.

HOW WE GOT HERE

The road to victory at the U.S. Supreme Court began years before the court agreed to hear our case, Janus v. AFSCME.

In 2014, the U.S. Supreme Court heard Harris v. Quinn, which challenged mandatory union fees paid by home health care providers. The Liberty Justice Center filed an amicus brief, and in June 2014 the Court sided with home health care worker and Illinois mom Pamela Harris.

After the victory in Harris v. Quinn, the Liberty Justice Center successfully petitioned Illinois government to apply the Harris ruling to daycare providers who also were force-unionized. With our actions, more than 50,000 daycare providers were freed from the burden of mandatory union fees.

Victory in Harris v. Quinn signaled that the U.S. Supreme Court was ready to hear a case challenging mandatory union fees in the public sector. So the Liberty Justice Center got to work to bring such a case.

We heard often from government workers who were unhappy that working in public service meant giving part of every paycheck to a government union. But many were afraid or reluctant to take on the unions. Then in spring 2015, we met a brave Illinoisan named Mark Janus.

We filed Mark’s case in March 2015. That summer, the Supreme Court agreed to hear a similar case, Friedrichs v. California Teachers Association. The unexpected death of Justice Antonin Scalia resulted in a 4-4 tie vote in Friedrichs and the issue went unresolved. Thankfully, Janus v. AFSCME was waiting in the wings.

Oral arguments in our case were heard on Feb. 26, 2018 and four months later the Court issued its decision: We won. The court agreed that the forced-fees scheme was unconstitutional, and restored workers’ rights to free speech and freedom of association.

2011

Liberty Justice Center is founded

NOVEMBER 2013

Liberty Justice Center files amicus brief in the Supreme Court case Harris v. Quinn

JUNE 2014

Supreme Court sides with Illinois mom Pamela Harris in Harris v. Quinn

JULY 2014

Liberty Justice Center successfully petitions Illinois government to apply Harris ruling to 50,000 daycare providers in the state

MARCH 2015

Liberty Justice Center files Janus v. AFSCME

JUNE 2015

The Supreme Court agrees to hear oral arguments in a similar case, Friedrichs v. California Teachers Association

FEBRUARY 2016

Supreme Court Justice Antonin Scalia dies unexpectedly, leaving the Court with a 4–4 tie vote in Friedrichs

APRIL 2017

Justice Neil Gorsuch joins the Supreme Court

SEPTEMBER 2017

Supreme Court announces it will hear Janus v. AFSCME

FEBRUARY 2018

Supreme Court hears oral arguments in Janus v. AFSCME

JUNE 2018

Victory! Supreme Court sides with Illinois worker Mark Janus in Janus v. AFSCME

ABOUT MARK JANUS

My name is Mark Janus, and I am the plaintiff in the Supreme Court case Janus v. AFSCME. I joined this fight in 2015, and since that time the Liberty Justice Center has stood by my side every step of the way. I’m so grateful for their backing in my case.

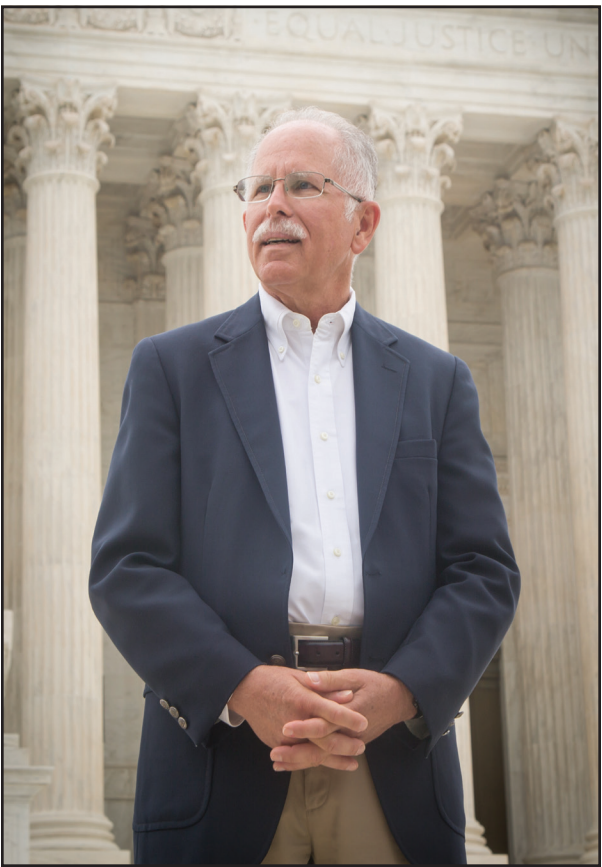
As a child support specialist for state government in Illinois, I worked to ensure that children receive all the financial support available to them. I loved my job; serving others is part of who I am. But for years, I was required to check my First Amendment rights at the door in order to work in public service. That’s right; to hold a job in state government, I had to pay money every month to a government union. I believed that was a tremendous overreach, and I knew there were many other government employees who agreed that it was wrong. That’s why I reached out to the Liberty Justice Center in 2015 and, with their help, took my case all the way to the U.S. Supreme Court.

Over the years I’ve worked in the private sector and in government. In the 1980s, I worked in a government job and was not required to pay money to a union. Then I worked for a private company. When I returned to the public sector in 2007, the union automatically deducted money from my paycheck even though I was not a union member. That’s when I learned that state government in Illinois had granted AFSCME – a politically-powerful government union – the power to exclusively represent more than 90 percent of state workers in Illinois. The government gave AFSCME the power to collect money from almost every employee of state government, even if we didn’t support the unions’ politics and policies. I had no choice and no voice in the matter.

I became one of millions of American workers who were forced to support a government union as a condition of employment.

This injustice went on for decades – but thanks to the Liberty Justice Center and its supporters, government workers now have their First Amendment rights restored. Thank you for all you are doing to advance the cause of worker freedom.

Mark Janus





Supporters of Mark Janus gather outside the Supreme Court on Feb. 26, 2018, the day oral arguments were heard in Janus v. AFSCME.

WINNING HEARTS AND MINDS

The Liberty Justice Center knew that in order to succeed in Janus v. AFSCME we needed more than a legal victory. It was our job to win over the hearts and minds of the American people and ensure that government workers affected by this case understood what was at stake.

This is the biggest victory for workers' rights in a generation. But a positive outcome in this case is only the beginning. Public-sector unions have launched a multifaceted, well-financed misinformation campaign to distort the narrative around worker freedom. And they've spent the past year advancing that false narrative. That's why the Liberty Justice Center built a national marketing and media campaign as soon as we learned that the Supreme Court would hear Janus v. AFSCME.

To do this effectively, we assembled a coalition of like-minded think tanks, litigation firms and advocacy groups who would help amplify our message. We developed and disseminated

messaging about our case that emphasized restoring workers' rights and giving every government worker a choice and a voice in union matters. And we worked collaboratively with our coalition partners to help maximize that message nationwide.

Since Mark's case was heard before the Supreme Court, our attorneys, case and plaintiff have been featured in thousands of news articles across the country. These include front-page stories in The New York Times, Chicago Tribune and The Wall Street Journal. Our team has appeared live, in-studio with plaintiff Mark Janus on C-SPAN, Fox News Channel and other top-tier national broadcast outlets. We've placed op-eds in the Washington Post, USA Today, Investor's Business Daily, National Review and Real Clear Policy, among other national news outlets.



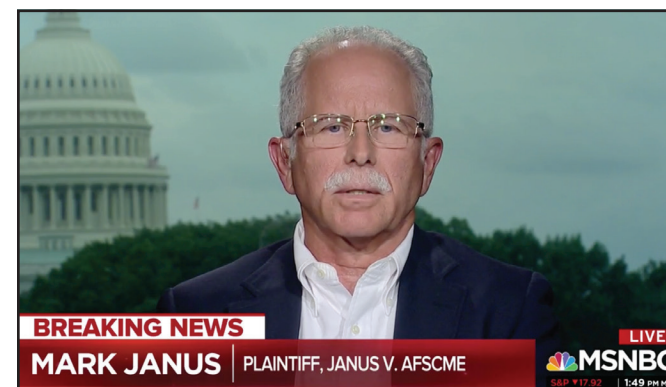
Above: Mark Janus and Liberty Justice Center Director of Litigation Jacob Huebert appear live on Fox News @ Night with Shannon Bream on June 27, 2018, the day the Supreme Court issued its decision.



Liberty Justice Center President Patrick Hughes talks with CBN News about the case.



Liberty Justice Center Vice President Diana Rickert debates an AFSCME leader on WTTW's Chicago Tonight on decision day.



Mark Janus appears live on MSNBC hours after the Supreme Court issued its decision.



Liberty Justice Center Chairman of the Board John Tillman appears live with Neil Cavuto on Fox Business on decision day.


THE FIGHT HAS ONLY JUST BEGUN

Victory in Janus v. AFSCME is only the first step toward restoring worker freedom. Now begins the hard work of ensuring that governments across the United States adhere to the court’s ruling.


Across the country, politicians and government unions are conspiring to make it as difficult as possible for workers to exercise their recently restored First Amendment rights. We won’t let that happen. The

Liberty Justice Center is committed to protecting worker freedoms and ensuring that the Supreme Court ruling is fully implemented in all 50 states.

Unfortunately, the Liberty Justice Center has already heard from government workers across the country about the tactics government unions are using to block them from exercising their rights. Here’s a sampling of what’s happening across the country:

 The largest union in Oregon, Local 503, is conducting an online membership drive. Workers who request to “learn more” about becoming a union member are directed to an online sign-up form that locks them into union membership for at least one year. This warning is listed only in the fine print on the form.

This is not the only instance of government unions standing in the way of the Janus ruling. The Liberty Justice Center has heard from government workers across the U.S., including a public employee from Oregon who was told they cannot leave their union until the anniversary of their hire date – in 2019.

 In New York, a new law signed by Gov. Andrew Cuomo requires government employers to notify government unions every time a new hire is made. Government agencies are then required to provide the unions with the personal contact information – including name and home address – for every new hire, regardless of whether these new hires want to be union members or have any affiliation with the union. Under the new law, the government union also is entitled to meet face-to-face with the new worker on government time during the worker’s first month on the job to discuss why the worker should become active in the union – regardless of the worker’s feelings toward the union. Similar legislation was enacted in other states, including California, Maryland and Washington.

SEIU503
IN IT TOGETHER

Building a Just and Vibrant Society



Please complete the following form to join the tens of thousands of care providers and public service workers who make Oregon a great place to work and live. By doing so, you will commit to maintaining your membership for one year, or paying a non-member fee equivalent. Your full name, network address, and a timestamp of your submission will serve as your signature.

Member Power Teamster Power



Stand Together Win Together

YES! I want to become a member of Teamsters Local 2010 and continue to stand with my coworkers to win fair wages, benefits, and working conditions for all!

1 I recognize the need for a strong union and believe everyone represented by our union should pay their fair share to support our union's activities. Therefore, I voluntarily authorize my employer to deduct from my earnings and transfer to Teamsters Local 2010 an amount equal to the regular monthly dues uniformly applicable to members of Local 2010, and I agree that this authorization shall remain in effect for the duration of the existing collective bargaining agreement, if any, and yearly thereafter until a new CBA is ratified, unless I give written notice via U.S. mail to both the employer and Local 2010 during the 30 days prior to the expiration of the CBA or, if none, the end of the yearly period. My check-off authorization will renew automatically, regardless of my membership status, unless revoked during the window period described. My signature below strengthens our Union to win fair wages and benefits!



In California, government workers in the state’s university system are facing a complicated and lengthy exit from Teamsters Local 2010. Workers are being told that they cannot leave the union unless they provide written notification during the 30 days prior to the end of the union’s contract. Workers are not told when the contract will end or where to mail their request to resign from the union.



New Jersey recently enacted a law that prohibits public employers from “discouraging” union membership. The law will require taxpayer-funded government entities that “discourage” union membership to reimburse the union for any dues the union perceives it lost because of the government entity’s actions. However, the law does not define the standard for discouraging union membership and how to prove that employers are at fault for causing workers to decline union membership. This law, deceptively called the “Workplace Democracy Enhancement Act,” also limits an employee’s opt-out window to the ten days following the anniversary of the employee’s employment. The opt-out does not become effective until 30 days after the anniversary (enabling unions to squeeze one more month’s worth of dues out of an unwilling employee). This tiny opt-out window is likely unconstitutional; in 2017, the Michigan Court of Appeals struck down a less-restrictive opt-out window.



The state legislature in Hawaii is considering a bill that would provide a taxpayer-funded subsidy to government unions to ensure a steady flow of money to union coffers. Under this scheme, the state would force not only government workers – but every taxpayer in the state – to pay for government unions’ political speech. This is not the only example of Hawaii government acting at the behest of government unions; Hawaii is also considering legislation that would require an employee who does not wish to join a union to pay an amount equal to the union dues to a charity. In addition, if the union represents such an employee in arbitration, the employee would be required to compensate the union for those services. Hawaii has also passed a bill limiting the union opt-out window. And to make resignation as complicated as possible for workers here is how the proposed legislation describes the union resignation window: “30 days before the anniversary date of the execution of the employee’s payroll deduction agreement.”



Working collaboratively with like-minded organizations across the country is key to our success. Above, Mark Janus appears at an event hosted by our partners at the Washington Policy Center in May 2018.

SOLIDIFYING SUCCESS

Across the country, allied organizations are helping educate government workers about their newly restored rights. Unfortunately, after learning about their options many government workers face barriers to exiting their union. That's where the Liberty Justice Center comes in.

We're prepared to intervene and litigate on behalf of government workers across the U.S. who cannot immediately exercise their right to stop paying a government union. We anticipate filing cases across the country on behalf of workers who experience difficulty exercising their Janus rights.

Additionally, the Liberty Justice Center mailed letters to government entities across the U.S., demanding they adhere to the Supreme Court ruling immediately. Our letters spelled out exactly what compliance with the ruling looks like – and warned government officials that we are prepared to pursue litigation if they fail to comply.

Statehouses across the country have proven to be a breeding ground for anti-worker legislation, so our team is closely monitoring proposals aimed at circumventing the Janus decision. We plan to bring cases in states that stand in the way of the court's ruling – whether through administrative action or new laws.

The Liberty Justice Center also is part of a national coalition of other like-minded organizations committed to helping government workers exercise their First Amendment rights. We're sharing best practices with our peers, coming together on strategy and helping each other out wherever we can.

We're also continuing to spread the message of worker freedom direct to government workers through standwithworkers.org, and through legacy media channels.

WORKER FREEDOM IN THE NEWS

The Supreme Court's ruling in *Janus v. AFSCME* was a top national news story and continues to appear in the news daily. Since the week of the decision, our work and the case have been featured in more than 5,400 news articles across the country. Here are some of our most notable appearances:

NATIONAL BROADCAST

Bloomberg TV and radio: Mark Janus appeared on both outlets to discuss the case on June 28, 2018.

C-SPAN: Mark Janus and Jacob Huebert appeared live on the popular public affairs show "Washington Journal" for 30 minutes on the morning of oral arguments and again on June 29, 2018 to discuss the decision. They took calls and questions from Americans across the political spectrum.

Fox News Channel: The case and the Liberty Justice Center have been featured frequently since the case was first filed in spring 2015. The case was first featured on national news in April 2015 when Fox aired multiple stories on Bret Baier's "Special Report," and Fox followed the case as it progressed to the Supreme Court. On the night of the decision, Mark Janus and Jacob Huebert appeared together live, in-studio on Shannon Bream's show "Fox News @ Night." Mark and Jacob also appeared the next morning on Fox & Friends to discuss the ruling. Mark appeared on "Cavuto Live" on June 30 from the state capitol in Illinois.

Fox Business Network: Mark Janus and Jacob Huebert appeared live on Varney & Co. from outside the U.S. Supreme Court minutes after the justices issued their decision on June 27, 2018. Jacob Huebert also appeared in-studio with host Stuart Varney in New York before oral arguments.

MSNBC: Mark Janus appeared live from the network's Washington D.C. studio on June 27 to discuss the decision with host Ali Velshi.

NPR (national): The Liberty Justice Center lined up a story previewing oral arguments with famed legal affairs correspondent Nina Totenberg. After the decision, Mark was interviewed for the national network's "Marketplace" program, which is broadcast on more than 800 stations across the U.S. The next day, Jacob Huebert debated the president of the National Education Association live on the show "1A."

NATIONAL PRINT

The Liberty Justice Center worked directly with journalists from the Associated Press, Bloomberg, Chicago Tribune, The Los Angeles Times, The New York Times, Reuters, USA Today, The Wall Street Journal, The Washington Post, The Washington Examiner and The Washington Times, among others.

STATE-BASED NEWS

In addition to placements in top-tier national news outlets, the Liberty Justice Center also focused on reaching government workers through legacy news outlets in the 22 states directly affected by this ruling. Appearances and interviews include: NPR affiliates in New York, California, Illinois and Minnesota; WGN TV and its affiliate CLTV in Chicago; WGN, WLS and AM 560 radio in Chicago; morning drive-time radio in southern Illinois; WPHT in Philadelphia; KPLK in the Twin Cities; morning drive-time radio in St. Louis; and many nationally-syndicated radio shows across the country.

WHY I TOOK MY CASE OVER FORCED UNION DUES TO THE SUPREME COURT

By Mark Janus, plaintiff in Janus v. AFSCME. | July 1, 2018

My home state of Illinois is in financial free fall. The state has billions of dollars in unpaid bills, has unbalanced budgets and is bleeding people and money.

A state doesn't get into a mess like this overnight. It's the result of many seemingly small decisions over many years. It's for that reason that I fought to not be part of that mess — all the way up to the Supreme Court.

In 2017, as media pundits wondered whether Illinois would be the first state to have its credit rating downgraded to junk status, I watched the American Federation of State, County and Municipal Employees (AFSCME) union lobby for higher taxes to pay for higher salaries and benefits for government workers such as me. Certainly, my salary wasn't the cause of the state's financial woes, but when you consider that I have had a raise almost every year I have been working for the state — and that I work alongside more than 35,000 other state employees — you can begin to see how that might affect the state's bottom line. That's in addition to the incredibly generous, taxpayer-funded pension offered to state workers — an average of \$1.6 million per state employee, according to a report from the Illinois Policy Institute.

Decisions about government workers' salaries and pensions aren't made independently by elected officials who are unaware of the state's empty bank accounts. The raises and benefit increases are pushed by government labor unions that have lobbied for the authority to negotiate on behalf of government workers. In 22 states, government workers like me — as well as police officers, firefighters and teachers — are required to pay fees to these unions to negotiate on our behalf, even if we don't want to be members or we don't support what they negotiate.

Why don't politicians just say no to the demands of the unions when they know the state can't afford them? Because the unions bankroll into office the same people who ink their contracts. Unions are among the top spenders in elections, and they make sure that people who don't support their demands lose their seats.

Since its contract expired in 2015, AFSCME, which I am required to fund even though I am not a member, had increasingly used the possibility of a strike to push the

state toward accepting the union's demands for higher salaries and benefits. I couldn't stand by anymore while these policies were bankrupting the state. That's why I asked the Liberty Justice Center to represent me and take my case to the Supreme Court.

I would gladly forgo my annual raise because it's more important to me that the state get its financial house in order. I would happily have my pension converted into a 401(k), instead of piling more obligation onto the bankrupt pension fund. But I haven't had a choice about either of these, and I have been forced to pay for a private organization that I don't want to be a member of to negotiate for things I don't believe in.

Union leaders said I did have a choice: Quit my job. Agree with the union or quit my job as a government worker. Think about that for a minute: To be a government worker, you have to agree with and fund a private organization?

Not only is it common sense that people should not have to fund a private organization that is advancing government policies they oppose, it also violates the First Amendment.

After many decades — and many millions of workers having to make this unfair bargain — the Supreme Court agreed. It said Wednesday that government workers can't be forced to pay fees to unions as a condition of working in public service. Thanks to this ruling, workers such as me will no longer have to check our First Amendment rights at the door when we enter public service. We will no longer be required to fund unions that are negotiating policies that are bankrupting our states.

Government workers will still be free to join unions, and most will. Unions will also still negotiate on behalf of government workers, just as they do today in the 28 states where workers aren't forced to pay unions fees. The change that the court made simply respects the rights of workers who don't want to be forced to pay for policies they oppose. We can all agree that's a fundamental right that American workers deserve.

JANUS DECISION BIGGEST VICTORY FOR WORKERS' RIGHTS IN A GENERATION

By Patrick Hughes | June 27, 2018

The United States Supreme Court has just delivered the biggest victory for workers' rights in a generation. The case is Janus v. AFSCME. The plaintiff is Mark Janus, a child-support specialist who works for the state of Illinois. And I'm proud that the litigation firm of which I am president, the Liberty Justice Center, represented Mark in this landmark case.

Soon after Mark began working in state government, he noticed that money was coming out of his paychecks and going to a union, AFSCME Council 31 — even though he wasn't a member of that union and no one had ever asked him if he wanted to give money to it. Then he found out had no choice in the matter.

That's because Illinois is one of 22 states with a law on the books authorizing the government to force workers to pay union fees just to keep their jobs. Nationwide, these laws have compelled about 5 million public-sector workers to give part of each paycheck to a union, whether they wanted to or not.

But with this ruling, that practice ends.

The court recognized that the business of public sector unions is politics. That's what AFSCME and other government unions are all about. They are political organizations whose primary mission is to grow the size and cost of government. So when workers give money to a public sector union, it goes to their political agenda.

With this ruling, unions still have the right to lobby for this agenda. But because of this ruling, government unions no longer have the right to force workers to give them money if they don't want to.

The court was right to side with Mark Janus in this case. In its decision, the court affirmed that the First Amendment protects every individual's right to choose which private organizations they will and won't support with their money. It declared that a person shouldn't have to give up that right just because he or she wants

to advocate for children in child-support cases, be a firefighter, or teach in a public school.

As a result of this decision, all government workers across the country are now free to choose which groups they will and won't support with their money. In other

words, Americans who work in government now have the same First Amendment rights as everyone else.

And these workers stand to benefit from the court's decision in another way. Until now, government unions in states with mandatory fees have had little incentive to listen

to the people they supposedly represent. Why bother if the fees are mandatory? Now that workers have a choice whether they want to support the union or not, the unions will have to earn their support — like almost every other private organization in America.

Government unions have complained that a decision in Mark Janus' favor will somehow hamper their ability to represent workers, but that's not true. Government workers who want to be part of a union still can; that hasn't changed. Government unions can still organize and represent workers and advocate for the things they believe in, just as they always have. Only one thing will be different: from now on, the unions will have to do those things using money that people give them voluntarily.

The truth is, Janus v. AFSCME simply puts each worker in control of how to spend their money. It gives workers a choice and a voice when it comes to unions in their workplace. That's something everyone who claims to champion workers' rights should celebrate.

Patrick Hughes is president of the Liberty Justice Center, which represented Mark Janus in the Supreme Court case Janus v. AFSCME together with co-counsel from the National Right to Work Legal Defense Foundation.

SUPREME COURT DEALS BLOW TO PUBLIC-SECTOR UNIONS

By Ian Kullgren and Andrew Hanna | June 27, 2018

The Supreme Court ruled on Wednesday that public-sector unions may not charge non-members mandatory fees, dealing a financial blow to organized labor on the eve of a competitive midterm election campaign.

In a 5-4 decision, the justices ruled that forced collection of so-called agency fees violates public employees' First Amendment right not to back union activity.

All five of the court's Republican appointees joined in the ruling, with the four Democratic-appointed justices dissenting. The decision overturns a 41-year-old precedent in which the court unanimously found that such charges did not run afoul of the Constitution's free-speech and free-association rights.

Wednesday's decision in Janus v. AFSCME is the second major blow to labor dealt this term by the Supreme Court, following its May 21 decision upholding employment contracts that bar workers from participating in class-action lawsuits. The Janus decision means that unions that represent state and local government workers henceforth must operate under "right to work" rules, a limitation already imposed on unions that represent federal workers and on unions that represent private-sector workers in 28 states.

Under right-to-work, unions may not recoup from union non-members their share of the cost of collective bargaining, even though the law requires those same unions to represent all members of a bargaining unit regardless of whether they belong to the union.

In 1977, the high court ruled in Abood v. Detroit Board of Education that public sector unions were permitted to collect fees from non-members to cover the cost of collective bargaining. The Janus decision overturns Abood, which Justice Samuel Alito called "poorly reasoned."

"It has led to practical problems and abuse," he wrote for the majority. "It is inconsistent with other First Amendment cases and has been undermined by more recent decisions."

President Donald Trump crowed about the victory on Twitter but misrepresented the purpose of the fees, claiming workers are now "able to support a candidate of his or her choice without having those who control the Union deciding for them." Under Abood, agency fees were already barred from being used to support political candidates.

The lawyers arguing for plaintiff Mark Janus, an Illinois state worker who declined to join the American Federation of State, County, and Municipal Employees, never claimed that this wall had been breached. Rather, they argued that all nonpolitical activities undertaken by a public employee union, including collective bargaining, were inherently political because they concerned the expenditure of public funds.

What Trump did get right was that the decision was a "big loss for the coffers of the Democrats."

Government unions account for about 6 percent of the money spent on Democratic candidates in federal elections, and that doesn't include significant in-kind contributions that these unions provide through such activities as phone banks, door-to-door leafleting, and driving voters to the polls on Election Day. The ruling means unions will have to redirect funds toward "internal organizing" efforts to staunch the flow of workers who might want to leave the union.

Writing for all four liberal justices, Justice Elena Kagan harshly criticizing the conservative justices for subverting the democratic process, accusing them of becoming "black-robed rulers overriding citizens' choices."

"Today, that healthy — that democratic — debate ends," she wrote. "The majority has adjudged who should prevail."

Labor advocates echoed Kagan's sentiments, calling the decision an attack on workers' right to associate.

"This Supreme Court has shown a complete disdain for workers and their voice," said Catherine Ruckelshaus,

SUPREME COURT DEALS BLOW TO PUBLIC-SECTOR UNIONS

(continued)

legal director for the National Employment Law Project. "It shows a deep misunderstanding about what the role of unions are in our country."

Unions have complained that right-to-work creates a "free rider" problem for unions, wherein members acquire a financial incentive to quit the union because they can still enjoy its benefits without paying member dues or non-member "fair-share" or "agency" fees.

But Mark Janus maintained that the payments he was compelled to pay AFSCME violated his First Amendment rights because the public-employee wages and benefits AFSCME sought to influence were matters of government policy.

"Today the Supreme Court recognized that no one should be forced to give up that right just to be allowed to work in government," said Jacob Huebert, Janus's attorney from the Liberty Justice Center, in a statement after the decision. "The Court recognized that unions have the right to organize and to advocate for the policies they believe in — but they don't have a special right to force people to pay for their lobbying."

The Janus decision is a blow to Democrats as the 2018 election cycle gets underway. A 2014 report by the Congressional Research Service found that private-sector union membership in right-to-work states was one-third that in states that weren't right-to-work. Were Janus to have a comparable effect on public employee union membership, it eventually could reduce political spending by the big four public-employee unions — AFSCME, SEIU, the American Federation of Teachers, and the National Education Association — from the \$166 million they gave federal candidates in the 2016 cycle to something closer to \$55 million.

The case could have an even longer term political impact than Tuesday's decision in Trump v. Hawaii that upheld the White House's travel ban, according to legal experts.

"Bad policies like the travel ban can be fixed through the political process," wrote Dan Epps, an associate law professor at Washington University in St. Louis, on Twitter. "Janus and its ilk are designed to make left victories in the political process harder to achieve."

The facts of the case strongly resembled those in

Friedrichs v. California Teachers Association, on which the high court deadlocked in 2016, following the death of Justice Antonin Scalia. The addition of Justice Neil Gorsuch gave plaintiffs the fifth vote they needed to outlaw non-member union fees.

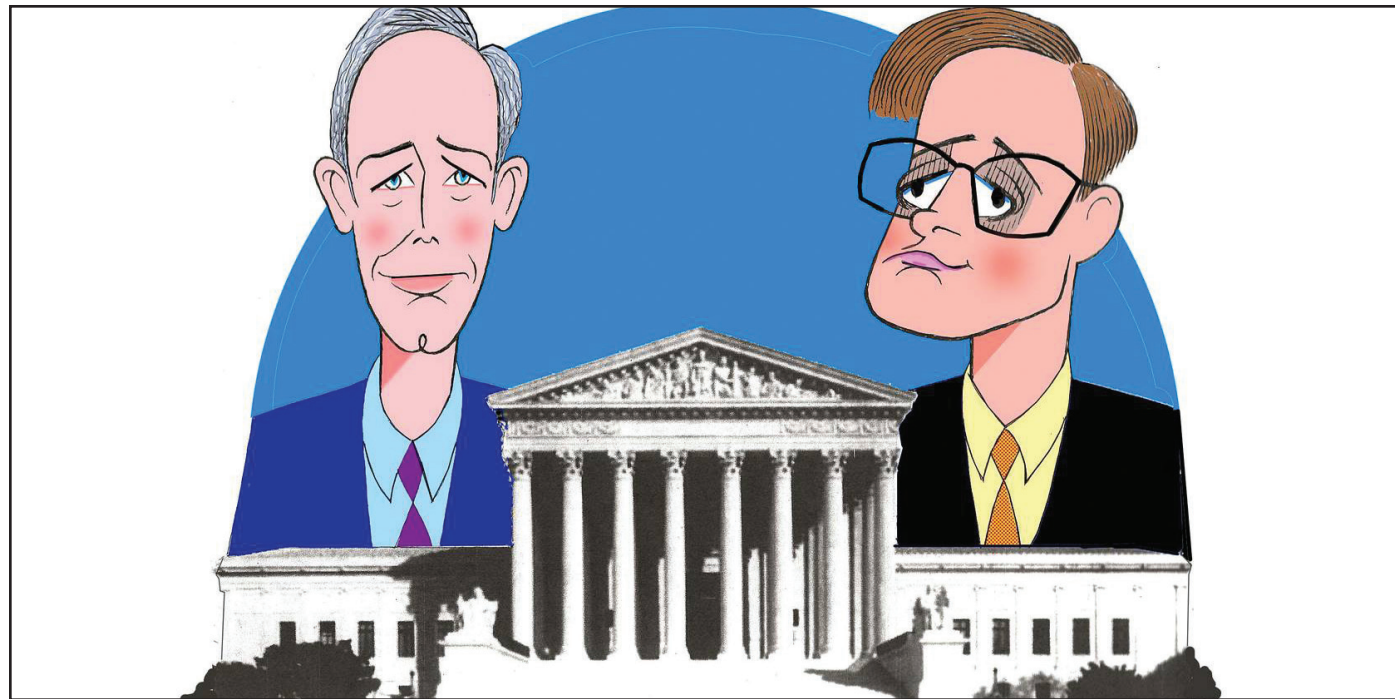
As was true with Friedrichs, Janus was bankrolled largely by the conservative Lynde and Harry Bradley Foundation through donations to the National Right to Work Foundation and other legal nonprofits. Donors Trust and Donors Capital — two funds with links to the Koch brothers — also helped fund the legal fight.

Josh Gerstein contributed to this story.

WALL STREET JOURNAL

THE WEEKEND INTERVIEW: THE LAWYERS WHO BEAT THE UNIONS

By James Taranto, Washington | June 30, 2018



The Supreme Court closed its term this week with what Jacob Huebert calls “a perfect decision for worker freedom.” In a landmark First Amendment case, the justices ruled 5-4 Wednesday that the government may not authorize labor unions to exact fees from public employees who choose not to join.

For six years, in a series of majority opinions written by Justice Samuel Alito, the court had signaled that such a decision was in the offing. It was widely expected in 2016, when a similar case was heard. Then Justice Antonin Scalia died, leaving the court with a 4-4 deadlock. The vacancy apparently prompted a change in the unions’ litigation strategy, the ironic result of which was that Wednesday’s case, *Janus v. American Federation of State, County, and Municipal Employees*, arrived more quickly than it otherwise might have.

Mr. Huebert, 39, is director of litigation for the Liberty Justice Center, a public-interest law firm in Chicago. He and Bill Messenger, 43, of the National Right to Work Legal Foundation led the team that won the case on behalf of Mark Janus, a Springfield, Ill., social worker.

A state employee, Mr. Janus, 65, had declined to join the union for political reasons. “Mark’s view,” Mr. Huebert says, “is that the things that Afsome has advocated have gotten Illinois into the bad financial

shape that it’s in.” But under Illinois law, Mr. Janus was still required to pay Afsome a so-called agency fee—78% of regular union dues—to help cover its collective-bargaining expenses.

The rationale behind agency fees is that a union-negotiated raise or benefit goes to all employees, so a nonmember who doesn’t pay for that representation is a “free rider.” Unions also engage in political activities, including candidate endorsements and electioneering, but in an agency shop only fees from members can be used for that. The high court imported this concept from the private to the public sector in a 1977 case, *Abood v. Detroit Board of Education*. It held that while governments could not make union membership a condition of employment, they could allow unions to impose agency fees to cover expenses “germane” to collective bargaining.

Drawing the line to separate such expenses, called “chargeable” in labor-law parlance, from nonchargeable political expenses proved a difficult, hairsplitting exercise. In a 1991 case, the high court held that, in Mr. Messenger’s words, “lobbying is not chargeable—unless you’re lobbying for the enforcement or ratification of the collective-bargaining agreement.”

For public workers, Mr. Janus and his lawyers argued,

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the entire distinction was spurious. When the people on the other side of the negotiating table are government officials, Mr. Messenger says, “collective bargaining is basically like lobbying,” or like “petitioning the government for redress of grievances”—either of which is a “core First Amendment activity.” In this view, requiring a government employee to pay an agency fee is the equivalent of forcing him to take an oath against his conscience.

“Everything a public-sector union does is political,” Mr. Huebert says. Illinois’s Afsome Council 31, which he calls “an incredibly influential force in state politics,” has spent years “deadlocked” in negotiations with Republican Gov. Bruce Rauner. “They’ve been advocating not only increased pay and increased benefits, but also increased taxes,” Mr. Huebert says. “That’s part of the bargaining—that they tried to get the governor to join with them in advocating for higher taxes.” Under *Abood*, the union could still fund that activity with money from dissenters like Mr. Janus.

The first creaks in *Abood*’s foundation were heard in 2012. A National Right to Work lawyer went before the justices to argue a case called *Knox v. Service Employees International Union*, which challenged what Mr. Messenger calls “an obnoxious scheme by the SEIU in California.” The union had imposed a “special assessment” on members and nonmembers alike for “a political fight-back fund” to oppose three 2006 ballot measures backed by Gov. Arnold Schwarzenegger. When nonmembers complained, Mr. Messenger says, the SEIU promised to “refund the money after the campaign’s over, in the next dues cycle. So basically, it’s like a forced loan for a political campaign.”

The justices held 7-2 that this scheme was unconstitutional. Because it clearly involved nonchargeable political activity, the case didn’t implicate *Abood*. But Justice Alito, in a majority opinion joined by four colleagues, criticized *Abood* as having been decided “without any focused analysis.”

He went much further in *Harris v. Quinn* (2014), which Mr. Messenger argued before the high court. It involved a scheme initiated by Illinois’s former Gov. Rod Blagojevich, in which the state government declared that people who accepted Medicaid payments to care for a disabled person at home were, as Mr. Messenger

puts it, “public employees solely for purposes of labor law.” Many of them were caring for their own parents or children, but the SEIU chapter grabbed a share of their subsidy as dues or agency fees.

As in *Knox*, the issues Harris raised were too narrow to require a reconsideration of *Abood*. But in a 5-4 decision against the SEIU, Justice Alito delivered a scathing critique of the 1977 ruling, which he called “questionable on several grounds.” Among other faults, he wrote, the justices who decided *Abood* had “seriously erred” in interpreting earlier cases, “fundamentally misunderstood” one of them, and “failed to appreciate” the difference between public- and private-sector unions, as well as “the conceptual difficulty of distinguishing” chargeable expenses from nonchargeable ones in the government context. He added that “a critical pillar of the *Abood* Court’s analysis rests on an unsupported empirical assumption.”

Although near collapse, *Abood* was still binding on the lower courts, meaning that unions were assured of winning any challenge at the district and appellate levels. Justice Alito and his colleagues seemed to be inviting precisely that: a case they could use to overturn *Abood*. One possibility was *Janus*, which was launched in 2015 when Gov. Rauner petitioned a federal court to approve his executive order banning agency fees. The court held that the governor lacked standing to bring such a claim, but it allowed the case to proceed with Mr. Janus as lead plaintiff.

A different legal challenge reached the justices first. On Jan. 11, 2016, they heard arguments in *Friedrichs v. California Teachers Association*. Justice Scalia died Feb. 13. On March 29, *Friedrichs* ended with a whimper: “The judgment is affirmed by an equally divided Court.” Rebecca Friedrichs would have to keep paying an agency fee, and Scalia’s death had extended *Abood*’s lease on life.

Back in Illinois, *Janus* had been on hold pending a *Friedrichs* denouement. Evidently the unions, expecting the Scalia vacancy to be filled by a Democratic appointee, thought *Abood* was safe. After the *Friedrichs* fizzle, Mr. Messenger says, Afsome “moved to dismiss” *Janus*, “which is different than what they did in all the other cases, where they tried to drag it out.” The Seventh U.S. Circuit Court of Appeals granted the motion to

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dismiss in March 2017, so the case was ready for the Supreme Court. This February Mr. Messenger faced a nine-member court, including Justice Neil Gorsuch.

The result was everything Messrs. Janus, Messenger and Huebert could have hoped for, save a wider majority than 5-4. The high court unequivocally rejected the idea the unions’ interest in collecting what they call “fair share” fees trumps a nonmember’s First Amendment rights. “Petitioner strenuously objects to this free-rider label,” Justice Alito wrote. “He argues that he is not a free rider on a bus headed for a destination that he wishes to reach but is more like a person shanghaied for an unwanted voyage.”

Importantly, the court also held that public unions can collect fees only from employees who “affirmatively consent” to pay them. Mr. Messenger explains: “The unions take the position that it’s not a First Amendment injury unless the individual complains about it.” Since Harris, for instance, some states have continued collecting agency fees from home-care workers, refunding the money only if the nonmember demanded it. “Knox sharply criticized the idea of objection requirements,” Mr. Messenger says. Janus struck them down altogether.

But there are other strategies that unions—and their supporters in state legislatures—are sure to employ to limit the effects of this week’s ruling. “Four states,” Mr. Messenger says, “have actually passed laws forcing every public employer to negotiate with the union about having a mandatory orientation” for new employees.

“Imagine it’s your first day on a job somewhere,” he says. “You’re just going through the forms. They say, ‘Hey, this union—sign this card,’ and, ‘Oh yeah, by the way, you’re going to go meet with the union organizer in 30 minutes, everybody is going to sign.’ It’s a very coercive kind of setup.” He offers an analogy: “Imagine if the state of Texas said: Anyone who wants to own a firearm, you have to go down to the National Rifle Association, attend a 60-minute meeting [to] get you to join the NRA. The ACLU would be screaming bloody murder.” (The American Civil Liberties Union had stayed out of these labor cases until this year, when it filed a friend-of-the-court brief urging the justices to reject Mr. Janus’s First Amendment claim.)

When it comes to tilting the field in favor of unions, Mr. Messenger says, “California seems like they keep inventing new things.” The same day the court decided Janus, Gov. Jerry Brown signed a state budget with a provision that “the timing of the mandatory orientations is not public record—it can’t be disclosed to the public,” in Mr. Messenger’s words. An earlier law provides that “the names, contact information, of public employees is not a public record, and can only be given to a union.”

Another tactic that burdens workers’ First Amendment rights is to permit them to rescind union membership only during a brief annual window. “So if the card says an individual can only revoke between Dec. 25 and Jan. 5,” Mr. Messenger says, “the public employer must keep taking the money, no matter how much the employee complains.” Sometimes the card doesn’t even inform the worker of this date limitation: In Hawaii and New Jersey, the window is codified into statute.

Because of tactics like these, even a favorable Supreme Court ruling doesn’t necessarily end the matter. After the justices decided Harris, Mr. Messenger petitioned the courts for the refund of some \$32 million in fees the SEIU had wrongly collected from home-care workers. Even after losing in court, the union took the position that nonmembers were entitled to a refund only if they individually requested one. The Seventh Circuit agreed, and in January Mr. Messenger appealed the case, *Riffey v. Rauner*, to the Supreme Court.

On Thursday the justices vacated the circuit court’s ruling and sent the case back “for further consideration in light of Janus.” The high court’s holding on affirmative consent ought to oblige the appellate judges to rule in favor of Mr. Messenger’s clients. That would likely resolve things—but should Riffey reach the Supreme Court again, Mr. Messenger hopes there will be a full complement of nine justices.

Mr. Taranto is the Journal’s editorial features editor. Appeared in the June 30, 2018, print edition.

SUPREME COURT’S JANUS RULING FINALLY GIVES A VOICE TO 5M WORKERS

By Jeffrey Schwab, Washington Examiner | June 27, 2018

The government can no longer force its employees to pay a union as a condition of their employment. That’s what the Supreme Court decided on Wednesday in the case *Janus v. American Federation of State, County and Municipal Employees*.

This decision is life-changing for about 5 million government workers in 22 states, who have been forced to give part of every paycheck to a government union just to do their jobs.

Workers who chose not to join a union in those states were still required to pay agency fees, which purportedly covered only nonpolitical union activities like collective bargaining and administrative costs.

But this week, the Supreme Court recognized that the activities of government unions (such as collective bargaining and the government unions themselves) are inherently political. Government unions exist to lobby the government to spend its money and use its resources in ways the unions believe benefits workers, just as other groups lobby the government to spend its resources in ways that benefit their constituents.

However, the First Amendment prohibits governments from forcing people to fund political speech they don’t agree with and, therefore, the Supreme Court found that the government could not compel workers to contribute money to a union.

In the wake of this ruling, you will likely hear a lot from government unions and their political allies about what this decision means. But here are the facts.

Individuals have a First Amendment right not to be forced to pay money for political activity that they do not support. Could the government force you to pay the Republican Party for that tax cut you received, or the Democratic Party for your healthcare? Of course not!

Government unions will say that it’s not fair that they are required to represent nonunion members in collective bargaining who don’t pay them for those benefits. But

there is no reason to think that every benefit that the union negotiates is exactly what every worker would negotiate for themselves.

Additionally, in right-to-work states where this framework has been in place for years, government unions have chosen not to lobby their state governments to amend the law.

The fact is unions benefit tremendously from the ability to exclusively bargain on behalf of all

workers. That’s because exclusive bargaining power is extremely valuable: It provides unions with the power to speak and contract with the state on behalf of all employees in a unit and the power to compel state lawmakers to listen to them and bargain in good faith, while the state is prohibited from dealing with other employees or employee associations.

You may also hear that the Janus ruling undermines government unions’ ability to collectively bargain. But unions are still free

to collectively bargain on behalf of all workers in their bargaining unit. They will simply have to convince those workers to voluntarily pay for it — just like every other private organization.

Finally, you may hear that, as a result of the Janus decision, workers will no longer have a voice. That is simply false. Workers didn’t have a voice before this case because they were forced to fund a union even if they disagreed with the union’s values. Now workers have a voice and a choice: If they support the union, they are free to contribute, and if they don’t, they are no longer forced to pay for it.

Jeffrey Schwab is a senior attorney at the Liberty Justice Center, which represented Mark Janus in Janus v. AFSCME. He litigates cases to protect the rights to free speech, economic liberty, private property, and other Constitutional rights in both federal and state courts in Illinois.

A SUPREME COURT SHOWDOWN COULD SHRINK UNIONS’ POWER

By Adam Liptak | Feb. 22, 2018

CHESTER, Ill. — Randy Clover is something of an anomaly — the president of a union local here that represents Illinois state employees, and a Republican precinct leader who voted for President Trump. But he has no doubt about what will be at stake next week at the Supreme Court: the financial and political clout of one of organized labor’s last strongholds.

The court will hear arguments on Monday about whether the government employees represented by Mr. Clover’s union, the American Federation of State, County and Municipal Employees, must pay the union a fee for representing them in collective bargaining. Conservative groups, supported by the Trump administration, say the First Amendment bars forcing government workers from having to pay anything, and the court has sent strong signals that it agrees with that argument.

If it does, unions like Mr. Clover’s stand to lose fees not only from workers who object to the positions they take in negotiations but also from anyone who chooses not to join a union but benefits from its efforts. To hear Mr. Clover tell it, the case is the culmination of a decades-long assault against the labor movement.

“The case was started by the governor to destroy unions,” Mr. Clover said, referring to Gov. Bruce Rauner, a Republican who has been at war with Illinois’s public-sector unions. “It’s trying to diminish the protections that unions have for their members.”

A ruling against public unions is unlikely to have a direct impact on unionized employees of private businesses, because the First Amendment restricts government action and not private conduct. But unions now represent only 6.5 percent of private sector employees, down from the upper teens in the early 1980s, and most of the labor movement’s strength these days is in the public sector.

Groups financed by conservative donors have worked hard to weaken public unions, and denying them the ability to impose mandatory fees on workers has been a long-sought goal. The argument almost succeeded in 2016, when the Supreme Court seemed poised to rule that the fees were unconstitutional.

But Justice Antonin Scalia died not long after

the earlier case was argued, and it ended in a 4-to-4 deadlock. The new case, which had been filed in 2015, was waiting in the wings and soon reached the Supreme Court. By the time the justices agreed to hear it, Mr. Rauner’s claims had been dismissed, and the case is now being pursued by Mark Janus, a child support specialist for the State of Illinois.

The Supreme Court is back to full strength with Mr. Trump’s appointment of Justice Neil M. Gorsuch, and most observers believe the new justice will join the court’s other conservatives to deliver a decision that will hurt public unions.

Mr. Janus’s lawyers said the case is about freedom of speech and association. The activities of public unions are akin to lobbying, they said, and so are by their nature political. Forcing unwilling workers to pay for such activities violates the First Amendment, they added, by compelling them to support messages with which they disagree.

“We argue that you shouldn’t have to check your First Amendment rights at the door when you take a government job,” said Jacob H. Huebert, a lawyer with Liberty Justice Center, a conservative litigation group.

Mr. Clover and Mr. Janus are both represented by Council 31 of the union. But Mr. Janus, who works at the Illinois Department of Healthcare and Family Services in Springfield, objects to paying what the union calls “fair share fees” and others call “agency fees.”

“I was forced to pay these fees,” Mr. Janus said. “Nobody asked me.”

He added that he disagrees with stances taken by the union. “They use that money in these agency fees to support their different causes and views,” he said.

Two of the biggest employers here in Chester are run by the state, and together they employ about 1,400 union workers. Mr. Clover, a blunt and burly 54-year-old who works at a state mental health facility, represents more than 400 of them. Another thousand or so work at a state prison.

If the Supreme Court rules against his union, Mr. Clover said, its finances would suffer and its influence would drop. In time, he said, his members’

A SUPREME COURT SHOWDOWN COULD SHRINK UNIONS’ POWER

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incomes would fall, and local businesses would suffer.

“It probably would devastate this place right here,” he said, gesturing toward the buffet line at Reids’ Harvest House, a homey restaurant that serves filling meals.

More than 20 states let public unions charge nonmembers fees for work on their behalf. But unions can survive without the fees, Solicitor General Noel J. Francisco wrote in a brief for the Trump administration. “Despite the absence of agency fees, nearly a million federal employees — more than 27 percent of the federal work force — are union members,” Mr. Francisco wrote.

Mr. Clover, a Republican precinct committeeman in nearby Kinkaid Township, voted for Mr. Trump and said he was puzzled by the administration’s position in the case, which he believes is aimed at undermining his union’s effectiveness. “The union’s leadership tries to better the workplace for men and women trying to do their jobs,” he said. “But, unfortunately, I’ve seen the attack of the richer people trying to control everything.”

To decide against the union, the Supreme Court will have to overrule a 40-year-old precedent, *Abood v. Detroit Board of Education*. The decision drew a distinction between forced payments for a union’s purely political activities, which it held were forbidden by the First Amendment, and ones for more conventional union work, like bargaining, contract administration and representation of workers in grievance proceedings.

“To compel employees financially to support their collective-bargaining representative has an impact upon their First Amendment interests,” Justice Potter Stewart wrote for the majority. But, he wrote, “such interference as exists is constitutionally justified” to ensure “labor peace” and to thwart “free riders.”

In more recent decisions, the Supreme Court has twice suggested that the line drawn in the *Abood* decision is flawed and that the First Amendment bars the compelled payments for any activity by public unions.

“Because a public-sector union takes many positions during collective bargaining that have powerful political

and civic consequences,” Justice Samuel A. Alito Jr. wrote for the majority in 2012 in one of the cases, “the compulsory fees constitute a form of compelled speech and association that imposes a significant impingement on First Amendment rights.”

Lawyers for the union have urged the Supreme Court to reaffirm the *Abood* decision and to bar “free riders.” But Mr. Janus’s lawyers said that phrase had things backward. “An accurate term,” they wrote in a Supreme Court brief, “would be ‘forced riders,’ as nonmembers are being forced by the government to travel with a mandatory union advocate to policy destinations they may not wish to reach.”

Mr. Clover said his union had done invaluable work, notably in ensuring workers’ safety. He gave an example from his workplace, a maximum-security facility that houses mentally ill people caught up in the criminal justice system.

“The only thing we have is our hands to protect ourselves,” he said, “and we have handcuffs we can put on an individual if they are so out of control you cannot control them without somebody facing injury.”

When the state tried to ban the use of handcuffs to transport patients, Mr. Clover said, “the union went to battle for us.” The handcuffs stayed.

Mr. Janus’s lawyers said that those kinds of negotiations amount to lobbying on questions of public policy and that unwilling workers should not be made to subsidize it.

“Mark Janus and at least five million people in 22 states like him are forced to pay union fees out of every paycheck as a condition of their employment,” Mr. Huebert said. “That’s a violation of their First Amendment rights of freedom of speech and freedom of association.”

Adam Liptak is the Supreme Court correspondent for The New York Times.

ANTI-UNION CHALLENGERS ARE ON THE VERGE OF VICTORY AT SUPREME COURT

By Richard Wolf | Feb. 8, 2018

WASHINGTON — Dianne Knox describes herself as “a child of the ‘60s.” Pam Harris grew up a butcher’s daughter in a proud union household. Rebecca Friedrichs was secretary of her local teachers’ union. Mark Janus supports the rights of workers to organize.

But as the lead plaintiffs in four successive Supreme Court cases challenging the power of public employee unions, Knox, Harris, Friedrichs and Janus take pride in helping conservative groups reach a tipping point in their decade-long, anti-union campaign.

What Knox in 2012, Harris in 2014, Friedrichs in 2016 and Janus in 2018 have done is put the justices within one vote of overruling a 40-year-old precedent that allows the unions to collect fees from non-members for the cost of representation. In a case that will be heard this month, the court appears to have that additional vote in the form of Justice Neil Gorsuch.

A 5-4 decision against the unions would free about 5 million government workers, teachers, police and firefighters, and others in 22 states from being forced to pay “fair share” fees — a potentially staggering blow to public employee unions.

The challengers’ battles against the Service Employees International Union, the National Education Association, the American Federation of Teachers and the American Federation of State, County and Municipal Workers are based on disagreements with the political and policy priorities of the national leadership.

“This is not my father’s or my grandfather’s union,” says Harris, recalling the Amalgamated Meat Cutters to which they belonged. “This is a money-making scheme. It is a way to advance political agendas.”

Union leaders see the opposite — a power grab by what they call corporate billionaires and right-wing special interests to cripple the unions standing in their way.

“It is a defunding strategy,” Randi Weingarten, president of the American Federation of Teachers, said at a press conference with other union leaders Wednesday. “They want the economy to be further rigged in their favor.”

It’s no coincidence that the four cases have emerged from California and Illinois, states with strong public employee unions and strained state budgets. They are among 22 states without so-called “right-to-work” laws, which make union membership and contributions voluntary.

Already in the 22 states, workers do not have to contribute to the unions’ political activities. A ruling by the Supreme Court that they do not have to contribute anything at all could save objecting workers \$1,000 or more annually — at a huge cost to unions.

“The point is, who decides whether the union is worthy of their support — the workers themselves or the state on their behalf?” says Jacob Huebert, director of litigation at the Liberty Justice Center, which is representing Janus. “The First Amendment should be a non-partisan issue.”

From Knox’s relatively lonely effort in 2012 to Janus’ potentially landmark case this year, the legal fight has gained adherents on both sides. Only three friend-of-the-court briefs were filed at the Supreme Court in 2012. The number grew to 17 in 2014, 48 in 2016 and 67 this year.

Two early victories

Knox’s beef with the unions dates to 2005, when the SEIU established a “Political Fight-Back Fund” to oppose an effort by then-governor Arnold Schwarzenegger to reduce the clout of California’s public employee unions. Even non-members were expected to contribute.

“I’m sure in a lot of places, they do good,” Knox says. “But I don’t think we should be required as a condition of employment to pay for a union.”

Seven workers, with Knox in the leading role, sought help from the National Right to Work Foundation. They eventually won a 7-2 verdict from the Supreme Court in 2012; Justice Samuel Alito said the union didn’t inform workers of their right to refuse payment.

“My little case,” says Knox, now 70 and retired in Sacramento, “opened the door for these other cases.”

Harris — not your typical union-buster — was next.

ANTI-UNION CHALLENGERS ARE ON THE VERGE OF VICTORY AT SUPREME COURT

(continued)

She met her husband at a Democratic fundraiser for former Chicago mayor Richard M. Daley. But she registered as a Republican during her legal fight against Illinois’ effort to unionize home-care workers.

At 59, Harris spends her days caring for her 29-year-old son Josh, who has a rare physical and cognitive disability called Rubinstein-Taybi syndrome. She is paid out of her son’s Medicaid waiver, which is slightly more than \$2,000 a month.

“My employer is not the state. My employer is Josh,” Harris says. “The union had no business taking our sons’ and daughters’ Medicaid dollars.”

The Supreme Court sided with her in 2014, ruling 5-4 that home care workers paid by Medicaid rather than the state should not have to contribute to the local union. But the justices limited their ruling to Harris and other home care workers, leaving intact the unions’ right to collect fees from most non-members.

In his majority opinion, Alito cited the “bedrock principle that, except perhaps in the rarest of circumstances, no person in this country may be compelled to subsidize speech by a third party that he or she does not wish to support.” His words signaled that the court’s majority might be willing to go further in a subsequent case.

A tie vote’s aftermath

That case came two years later, courtesy of Friedrichs, an elementary school teacher in Anaheim, Calif. She says she grew disenchanted with the California Teachers Association when it refused to let teachers in her school district consider a pay cut to avoid layoffs.

“I actually love unions. I love the local association,” says Friedrichs, 52. On the other hand, she says, “the state and national level are completely tone-deaf. They’re out of touch with us. They could care less what we really want.”

Her challenge looked like a sure winner during oral arguments in January 2016. “Everything that is collectively bargained with the government is within the political sphere, almost by definition,” Justice Antonin Scalia said.

But a month later, Scalia died, leaving the court deadlocked and only able to let a lower court verdict against Friedrichs stand. The unions had dodged a third bullet.

The current case grew out of that near-miss and returned the dispute from California to Illinois, where Janus works as a child support specialist.

Like his predecessors, the 65-year-old claims no malice toward unions. But he says their pay and benefit demands have helped put Illinois in dire financial straits, with the lowest credit rating in the nation.

“I don’t oppose the right of workers to organize,” Janus says. “But it ought to be up to the workers to make that decision. ... All I’m trying to do is level the playing field and let the worker decide whether they want to join.”

Two years ago, Janus waited in freezing weather outside the Supreme Court to hear the oral argument in Friedrichs’ case. Now Friedrichs plans to return the favor.

“If we do win, I’m going to help restore workers’ rights in this country,” Janus says. “I’m very proud to be a part of that.”

Richard Wolf is a Supreme Court correspondent for USA Today.

SUPREME COURT TO HEAR CASE ON UNIONS, NON-MEMBER FINANCIAL REQUIREMENTS

By Ariane de Vogue | Feb. 25, 2018

The Supreme Court will wade into a clash between organized labor and conservative groups Monday in a case that could overturn decades-old precedent and deal a potentially crippling blow to public sector unions.

The case is one of the most contentious in a pivotal term, and protesters from both sides are expected to flood the Court Monday morning.

At the center of the debate is a 1977 Supreme Court opinion known as *Abood v. Detroit Board of Education* that says while non-members of public sector unions cannot be required to pay fees for a union's political activities, they can be required to pay so-called "fair share" fees pertaining to issues such as employee grievances, physical safety and training.

The *Abood* decision was a careful compromise when it came down 41 years ago, but in recent years, some conservative members of the Supreme Court have publicly questioned whether it should be overturned.

Today, 22 states have laws on the books that allow broad fair share fees for public employees.

All eyes on Gorsuch

At the arguments, all eyes will be on Justice Neil Gorsuch. Back in 2016, the justices heard a similar challenge and seemed poised to overturn *Abood*, but then Justice Antonin Scalia died after oral arguments and the court announced a 4-4 split. Now Gorsuch's vote could be critical.

The case is brought by Mark Janus, an Illinois public sector employee. He says that because he is a government employee, issues germane to collective bargaining are inherently political. He argues that the First Amendment protects him from having to support such political expression.

He is represented by groups such as the National Right to Work Legal Defense Foundation and the Liberty Justice Center who argue that approximately 5 million public sector employees are required -- as a condition of their employment -- to "subsidize the speech of a third party that they may not support, namely the government-appointed exclusive representative."

Jacob H. Huebert, one of Janus' lawyers, says his client

specifically does not support the union's advocacy for increased spending, especially given Illinois' current fiscal condition.

"A lot of people in the private sector in Illinois are struggling with an increased tax burden and a stagnant economy and Mark Janus doesn't think it's fair to put more demands on his neighbors at a time like this," said Huebert.

Trump officials: First Amendment at stake

The Trump administration is supporting Janus in the case, changing course from the Obama administration in the 2016 case. "The government's previous briefs gave insufficient weight to the First Amendment interest of public employees in declining to fund speech on contested matters of public policy," wrote Solicitor General Noel J. Francisco.

But Lee Saunders, president of the American Federation of State, County and Municipal Employees believes that the case boils down to corporate interests attacking the rights of workers.

"When working people are able to join strong unions, they have the strength in numbers they need to fight for the freedoms they deserve, like access to quality health care, retirement security and time off to work for a loved one," he said in a statement.

The unions point out that they are required by law to represent all employees regardless if they are members, and that no one is required to join the union. They say that if non-members don't have any obligation to pay fair share fees for the collective bargaining obligations, they would become "free riders," benefitting from the representation without sharing the costs. In addition, the coffers of public sector unions would suffer if non-members were able to get services for free.

They say the 40-year-old Supreme Court decision has left the decision in the hands of the states to decide how to proceed.

SUPREME COURT TO HEAR CASE ON UNIONS, NON-MEMBER FINANCIAL REQUIREMENTS

(continued)

Some on the right siding with unions

It's an argument supported by some Republican state lawmakers who have filed a brief supporting the unions and arguing the decision should be left to the states.

"As things stand, states can determine for themselves which rules work best for their work force and their communities, the court should not use the First Amendment to impose a single rule across the country that harms the ability of public sector workers to bargain together as unions," said Elizabeth Wydra, President of the Constitutional Accountability Center who represents the lawmakers.

Twenty states and the District of Columbia support the unions, but lawyers for 19 other states have filed briefs on behalf of Janus.

Those states agree with arguments made by business groups who are aiming to strike a blow at the financial structure that supports public sector unions.

Lawyers for the National Federation of Independent Business, for example, argue that the issues unions advocate for are "unfavorable" to small businesses.

"Public employee unions have become powerful in many states, shutting out other voices like the voice of small businesses who cannot afford more costly regulations or higher taxes," Karen Hamed, the group's executive director said.

Ariane de Vogue is a Supreme Court reporter for CNN.

A letter from John Tillman, Chairman of the Board and Co-Founder:

Our recent victory before the Supreme Court is encouraging ... no, it is breathtaking – a sweeping change that is a powerful tool for worker freedom. Nevertheless, we cannot secure the benefits afforded by this ruling without continued action.

The entire team at the Liberty Justice Center is energized by the groundswell of support behind our work in the Janus case. But the battle is far from over. The Supreme Court decision marks only the beginning of our work in the long fight to restore workers' rights.

That is where our work at the Liberty Justice Center continues, and it's why your partnership is vital.

We are prepared to offer litigation services to workers across the nation who face barriers to exercising their constitutional rights. I hope you will support these forward-thinking efforts as we ensure national worker freedom is respected and implemented throughout the country.

None of our success in the Janus case would have been possible without the amazing and courageous Mark Janus. And of course, Mark would not have been our client without the generosity of our current class of supporters and donors. I am eternally grateful for the work they did making this victory possible.

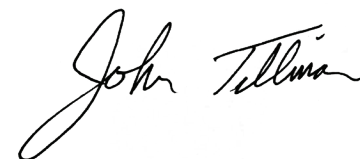
Our donors just helped win a United States Supreme Court case that overturned 41 years of bad precedent! You re-established free speech for more than 5 million government workers. Thank you.

Be proud of this amazing accomplishment. I know I am.

Now is the time to help us continue on this path and solidify success for years to come by joining in our work to ensure the incredible Janus decision is respected and implemented.

For questions about our work, please contact Laurel Abraham at 815-830-4811 or at labraham@libertyjusticecenter.org.

Thank you for your support.

A handwritten signature in black ink, reading "John Tillman". The signature is fluid and cursive, with the first name "John" being larger and more prominent than the last name "Tillman".